

DIAA Board of Directors' Meeting Minutes
Thursday, October 10, 2013 – 10:30 a.m.
John W. Collette Education Resource Center

I. Opening

A. Call to Order

The meeting was called to order at 10:30 a.m. by Terre Taylor.

B. Roll Call

The following DIAA Board members were present: Terre Taylor, Gerald Kobasa, Joe Thomson, Edna Cale, Craig Eliassen, Laura Leone, Catherine Marvel, Bradley Layfield, Artie Uhlich, Dr. Kevin Fitzgerald, Dr. Mark Holodick, Ron Eby, Willie Savage, and Nils Marcune. Kevin Charles, Executive Director, and Paula Fontello, Deputy Attorney General, were also in attendance. Board members Leroy Mann, Dr. Robert Walter, Curtis Bedford, Dave Thomas, Susan Coffing, and Dr. Susan Haberstroh were unable to attend.

C. Approval of Agenda

Dr. Fitzgerald made a motion to approve the agenda. The motion was seconded by Mr. Eby and carried unanimously.

D. Approval of Minutes of DIAA September 12, 2013 Board Meeting

Mr. Thomson made a motion to approve the minutes of the September 12, 2013 DIAA Board meeting. The motion was seconded by Ms. Leone and carried unanimously.

E. DIAA Financial Report

Mr. Charles reported that the total income to date is \$144,196 which is 18% of the projected revenue. Mr. Charles reported that for the period September 5 to October 1 the total income was \$85,407 which was limited to income from tournament fees, officials dues, member dues, NFHS Network, and corporate revenue. Mr. Charles then reported that the total expenses to date were \$179,720 and for the period \$42,853 which included expenses from the Student Leadership Conference, Board expenses, liability insurance, DIAA Sportsmanship Awards, travel, and salary/OEC's. Mr. Charles reported that the deficit is \$35,524 which is typical for this time of year. Mr. Charles stated that there is a detailed report available for Board members upon request. Ms. Cale made a motion to accept the financial report. The motion was seconded by Mr. Layfield and carried unanimously.

II. Public Comment

None

III. Action Items

A. Approval of Tournament Sanctions

Mr. Charles reported that there are 5 requests for spring track with 4 approved and one not approved. Mr. Charles also reported that there are 6 for indoor track, 1 for volleyball, 9 for cross country with 8 approved and one not approved, 10 wrestling, and 1 basketball with a total of 30 approved and 2 denied. Mr. Eby made a motion to approve the requests for sanction as presented. The motion was seconded by Mr. Marcune and carried unanimously.

F. Dave Oswinkle – New Boys’ Lacrosse Chair

Mr. Charles informed the Board that the previous Boys’ Lacrosse Chairman, Bob Schweitzer, had passed away. Mr. Charles reported that Dave Oswinkle, athletic director at Archmere Academy co-chaired the Boys’ Lacrosse Committee while Dr. Schweitzer was ill and that he has now agreed to replace him as Chair pending Board approval. Dr. Fitzgerald made a motion to appoint Dave Oswinkle as Chair of the Boys’ Lacrosse Committee. The motion was seconded by Mr. Marcune and carried unanimously.

E. Consideration of Indoor Track’s Future Format

Mr. Charles gave a brief background on the University of Delaware’s Field House and reminded the Board that UD is no longer available to host the indoor track championship. Mr. Charles stated that the UD facility was the only competition caliber indoor track in the state. Mr. Charles explained that there are now three options; 1) continue with regular season indoor track and host our state meet in Landover, Maryland, 2) continue with regular indoor track season without a state meet, or 3) eliminate indoor track as a recognized sport. Mr. Charles reviewed some facts about indoor track participation. Mr. Charles stated that the athletic directors voted 34-0 to host the indoor track state meet in Landover, Maryland. Mr. Charles also stated that the consensus of the public school Superintendents was to continue on with the sport the way it is and perhaps try it for a year and then move forward. Mr. Charles stated that he also met with the Delaware Association of Independent Schools and there were no objections. Mr. Charles recommended to the Board that DIAA hold the indoor track championship at Landover, MD. Mr. Kobasa made a motion to approve the request for the 2013-14 school year. Following the meet, information will be presented to the Board to determine the viability future state meets. The motion was seconded by Mr. Eby and carried unanimously.

D. Interim Waivers by Executive Director

Ms. Fontello advised that Items D. 1 – D. 4 are being considered under modified procedures with the consent of the parents and that in each of the cases, the parents have requested a closed hearing for the purpose of protecting the privacy of the pupil file. Ms. Fontello also advised that Mr. Charles granted two interim waivers in all of the cases; one that allows the student to be immediately eligible and the other is to waive the mandatory appearance of the student and parents. Ms. Fontello explained that under the modified procedures the Board will consider whether to approve the two interim waivers based on the written record and Mr. Charles's testimony. Ms. Fontello further explained that if the Board determines that there is insufficient information to make a decision or they need more information, the Board will not approve the interim waiver of the mandatory appearance. In that case, there is a full hearing scheduled for each case on November 14, 2013. Ms. Fontello noted for the record that the parents in each case have been presented with these modified procedures and have consented to the modified procedures. The parents in each case have submitted a signed consent and also requested that the students' hearings be held in closed session. Ms. Fontello further explained that Mr. Charles deviated from the normal procedures in these cases in order to try to accommodate the large number of waiver requests received for fall and winter sport athletes and also because there was some concerns about scheduling today's meeting and whether or not it would be able to occur as noted the meeting started an hour and a half late.

1. 1009.2.4 by Sanford School for DIAA Case #2013-210-3

Dr. Fitzgerald made a motion to go into executive session based on the parent's request for the purpose of protecting the privacy of the pupil file as an exception to FOIA. The motion was seconded by Mr. Eby and carried unanimously.

While in executive session, the hearing proceeded, evidence was taken, and the Board held deliberations. Ms. Fontello reviewed the modified hearing process and confirmed that the student's parents sent in a signed consent in order to proceed under these modified procedures and also requested a closed proceeding. Ms. Fontello advised that a full hearing is scheduled for the November 14, 2013 meeting should it be necessary. Ms. Fontello explained the two interim waivers granted by Mr. Charles; one allowing the student to participate and the second regarding the mandatory appearance provision to allow the student and parent not to appear today. It was confirmed for the record that Mr. Charles was sworn in. The waiver packet and supporting documents, the letter sent to the parents from Mr. Charles, and the signed consent were made part of the record. Evidence was taken and deliberations were held.

Ms. Cale made a motion to come out of executive session. The motion was seconded by Mr. Eliassen and carried unanimously. Ms. Fontello clarified for the records that Mr. Charles' letter indicates that the interim waiver was granted in all sports. Dr. Fitzgerald made a motion to grant the waiver and approve the two interim waivers granted by the Executive Director based on evidence presented the Student had met his burden of establishing a hardship and the information provided regarding the hardships that were beyond the control of the student. The motion was seconded by Mr. Eliassen and carried by a vote of 14 – yes (Taylor, Kobasa, Thomson, Cale, Eliassen, Leone, Marvel, Layfield, Uhlich, Fitzgerald, Savage, Holodick, Eby, and Marcune). Ms. Fontello noted for the record that the waiver request is granted and the full hearing scheduled for November 14, 2013 is no longer necessary and is cancelled.

2 1009.2.4 by Caravel Academy for DIAA Case # 2013-10-4

Mr. Kobasa made a motion to go into executive session based on the parent's request for the purpose of protecting the privacy of the pupil file as an exception to FOIA. The motion was seconded by Mr. Savage and carried unanimously.

While in executive session, the hearing proceeded, evidence was taken, and the Board held deliberations. Ms. Fontello reviewed the modified hearing process and confirmed that the student's parents sent in a signed consent in order to proceed under these modified procedures and also requested a closed proceeding. Ms. Fontello advised that a full hearing is scheduled for the November 14, 2013 meeting should it be necessary. Ms. Fontello explained the two interim waivers granted by Mr. Charles; one allowing the student to participate and the second regarding the mandatory appearance provision to allow the student and parent not to appear today. It was confirmed for the record that Mr. Charles remains under oath. The waiver packet and supporting documents, the letter sent to the parents from Mr. Charles, and the signed consent were made part of the record. Evidence was taken and deliberations were held.

Mr. Thomson made a motion to come out of executive session. The motion was seconded by Mr. Eby and carried unanimously. Mr. Thomson made a motion to grant Student's waiver request and approve the two interim waivers granted by the Executive Director based on evidence presented the Student had met their burden of establishing a hardship and the information provided regarding the hardships that were beyond the control of the student. The motion was seconded by Mr. Marcune and carried by a vote of 14 – yes (Taylor, Kobasa, Thomson, Cale, Eliassen, Leone, Marvel, Layfield, Uhlich, Fitzgerald, Savage, Holodick, Eby, and Marcune). Ms. Fontello noted for the record that the waiver request is granted and the full hearing scheduled for November 14, 2013 is no longer necessary and is cancelled.

3 1009.2.4 by Brandywine High School for DIAA Case #2013-10-5

Mr. Eby made a motion to go into executive session based on the parent's request for the purpose of protecting the privacy of the pupil file as an exception to FOIA. The motion was seconded by Mr. Layfield and carried unanimously. Dr. Holodick recused himself.

While in executive session, the hearing proceeded, evidence was taken, and the Board held deliberations. Ms. Fontello reviewed the modified hearing process and confirmed that the student's parents sent in a signed consent in order to proceed under these modified procedures and also requested a closed proceeding. Ms. Fontello advised that a full hearing is scheduled for the November 14, 2013 meeting should it be necessary. Ms. Fontello explained the two interim waivers granted by Mr. Charles; one allowing the student to participate and the second regarding the mandatory appearance provision to allow the student and parent not to appear today. It was confirmed for the record that Mr. Charles remains under oath. The waiver packet and supporting documents, the letter sent to the parents from Mr. Charles, and the signed consent were made part of the record. Evidence was taken and deliberations were held.

Dr. Fitzgerald made a motion to come out of executive session. The motion was seconded by Ms. Cale and carried unanimously. Dr. Fitzgerald made a motion to grant Student's waiver request and approve the two interim waivers granted by the Executive Director based on evidence presented the Student had met their burden of establishing a hardship and the information provided regarding the hardships that were beyond the control of the student. The motion was seconded by Ms. Cale and carried by a vote of 13 – yes (Taylor, Kobasa, Thomson, Cale, Eliassen, Leone, Marvel, Layfield, Uhlich, Fitzgerald, Savage, Eby, and Marcune). Ms. Fontello noted for the record that the waiver request is granted and the full hearing scheduled for November 14, 2013 is no longer necessary and is cancelled.

4. 1009.2.4 by Archmere Academy for DIAA Case 2013-10-6

Mr. Layfield made a motion to go into executive session based on the parent's request for the purpose of protecting the privacy of the pupil file as an exception to FOIA. The motion was seconded by Mr. Savage and carried unanimously.

While in executive session, the hearing proceeded, evidence was taken, and the Board held deliberations. Ms. Fontello reviewed the modified hearing process and confirmed that the student's parents sent in a signed consent in order to proceed under these modified procedures and also requested a closed

proceeding. Ms. Fontello advised that a full hearing is scheduled for the November 14, 2013 meeting should it be necessary. Ms. Fontello explained the two interim waivers granted by Mr. Charles; one allowing the student to participate and the second regarding the mandatory appearance provision to allow the student and parent not to appear today. It was confirmed for the record that Mr. Charles remains under oath. The waiver packet and supporting documents, the letter sent to the parents from Mr. Charles, and the signed consent were made part of the record. Evidence was taken and deliberations were held.

Mr. Marcune made a motion to go into deliberation. The motion was seconded by Mr. Savage and carried unanimously. Mr. Eliassen made a motion to come out of deliberation. The motion was seconded by Mr. Savage and carried unanimously. Dr. Fitzgerald made a motion to come out of executive session. The motion was seconded by Mr. Eby and carried unanimously. Ms. Fontello noted for the record that the letter sent indicates that the interim waiver was granted in all sports. Mr. Thomson made a motion to grant the Student's waiver request and approve the two interim waivers granted by the Executive Director based on evidence presented the Student had met their burden of establishing a hardship and the information provided regarding the hardships that were beyond the control of the student. The motion was seconded by Mr. Eby and carried by a vote of 13 – yes (Taylor, Kobasa, Thomson, Cale, Eliassen, Leone, Marvel, Uhlich, Fitzgerald, Savage, Holodick, Eby, and Marcune), and 1 – no (Layfield). Ms. Fontello noted for the record that the waiver request is granted and the full hearing scheduled for November 14, 2013 is no longer necessary and is cancelled.

IV. Executive Director's Report

- A. Legal - Ms. Fontello provided an update for the Board on legal issues relating to DIAA.
- B. Mr. Charles reviewed the summary of rules and regulations committee update.

The Board recessed at 12:00 p.m. and reconvened at 12:25 p.m.

III. C. Request for Waiver of 1008.2.4 by Caravel for DIAA Case #2013-10-2

Student and Student's father were in attendance to present this request. Student's father requested a closed hearing. A school representative was not in attendance. Mr. Layfield made a motion to go into executive session at the parent's request for the purposes of protecting the pupil file as an exception to the Freedom of Information Act. The motion was seconded by Mr. Savage and carried unanimously. Ms. Cale recused herself from this hearing.

While in executive session, the hearing proceeded, evidence was taken, and the Board held deliberations. Ms. Fontello explained that DIAA is a 20 member Board and has 19 voting members. Ms. Fontello further explained that the law requires the affirmative vote of a majority of the voting members present in order to pass a waiver request. Ms. Fontello explained that there were 13 voting members present and participating to consider the matter. The parties confirmed that they understood and wished to proceed with less than the full Board present. All persons participating in this hearing were sworn in. All the documentation was made part of the record and in addition to the testimony given the Board considered and relied upon the written documentation provided.

Ms. Leone made a motion to go into deliberation. The motion was seconded by Ms. Cale and carried unanimously. Ms. Marvel made a motion to come out of deliberation. The motion was seconded by Mr. Eby and carried unanimously. Mr. Eliassen made a motion to come out of executive session. The motion was seconded by Ms. Leone and carried unanimously.

Mr. Eby made a motion to approve Student's request based on the evidence presented and allow student to compete at the middle school level at Caravel Academy. The motion was seconded by Mr. Eby and carried by a vote of 11 – yes (Taylor, Kobasa, Eliassen, Leone, Marvel, Uhlich, Fitzgerald, Savage, Holodick, Eby, and Marcune) and 2 – no (Thomson and Layfield).

III. B. Request for Waiver of 1009.2.4 by Concord HS for DIAA Case #2013-10-1

Student, Student's Mother, and Jeff Langrehr; assistant principal at Concord were in attendance to present this request. It was determined that Student is 18 years of age and Student requested a closed hearing. Mr. Layfield made a motion to go into executive session based on Student's request for the purposes of protecting the pupil file as an exception to the Freedom of Information Act. The motion was seconded by Mr. Eby and carried unanimously.

While in executive session, the hearing proceeded, evidence was taken, and the Board held deliberations. Ms. Fontello explained that DIAA is a 20 member Board and has 19 voting members. Ms. Fontello further explained that the law requires the affirmative vote of a majority of the voting members present in order to pass a waiver request. Ms. Fontello explained that there are 13 voting members present and participating to consider this matter. The parties confirmed that they understood and wished to proceed with less than the full Board present. All persons participating in this hearing were sworn in. All the documentation was made part of the record and in addition to the testimony given the Board considered and relied upon the written documentation provided.

Mr. Layfield made a motion to go into deliberation. The motion was seconded by Ms. Cale and carried unanimously. Mr. Layfield made a motion to come out of deliberation. The motion was seconded by Mr. Savage and carried unanimously. Dr. Fitzgerald made a motion to come out of executive session. The motion was seconded by Mr. Kobasa and carried unanimously.

Ms. Cale made a motion to grant Student's waiver request based on the evidence presented Student met his burden and established an extreme financial hardship. The motion was seconded by Mr. Kobasa and carried by a vote of 13 – yes (Taylor, Kobasa, Thomson, Cale, Eliassen, Leone, Marvel, Layfield, Uhlich, Fitzgerald, Savage, Eby, and Marcune).

IV. Executive Director's Report

B Report on DAAD Annual Meeting

Mr. Charles reported on the DAAD Annual Meeting and stated that they did a great job and thanked Mike Wagner for organizing this event. Mr. Charles stated that the participation was exceptional. Mr. Charles reported that Bill Schultz from Smyrna received the Athletic Director of the Year award and Mike Wagner received the NIAAA Administrator of the Year award.

Mr. Charles reported on a concern from a member school regarding a coach coaching middle school football for their district and high school football for one of their opponents.

Mr. Charles shared a request by Dover High School to evaluate their ruling of eligibility for two students under McKinney-Vento.

Mr. Charles shared an article he received on the philosophy and approval by the nation's most successful coaches. He also shared an article found in the NFHS Website under unbreakable records about Salesianum's remarkable success in boys cross country.

Mr. Charles gave a follow-up report on the speaker Bob Bigelow and stated that he was really impressed with his message about returning youth sports to our kids.

Mr. Charles reported on purchasing electronic referee flags for soccer.

Mr. Charles reported that body composition testing is being transitioned back to the schools.

Ms. Leone commented on an incident that occurred at a football game. Mr. Charles stated that this incident will be going to the Sportsmanship Committee.

V. Other

October 10, 2013 DIAA Board of Directors Meeting

VI. Public Comment

None

VII. Adjournment

Mr. Eliassen made a motion to adjourn at 2:50 p.m. The motion was seconded by Ms. Cale and carried unanimously.

Tina Hurley